

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
High Cost Universal Service Support)	WC Docket No. 05-337
)	
Coalition for Equity in Switching Support)	
Petition for Clarification)	

REPLY COMMENTS OF GRANITE STATE TELEPHONE, INC.

Granite State Telephone, Inc. ("GST") hereby submits these reply comments in response to the Federal Communications Commission's Notice of Proposed Rulemaking ("NPRM") in the above captioned proceeding¹. In these reply comments, GST will address the arguments put forth by CTIA and Sprint Nextel in their comments in this proceeding. In particular, GST will demonstrate that these parties' arguments are irrelevant to the limited scope of the issues raised in the NPRM.

A. CTIA's argument that universal service support should be directed towards wireless and broadband services is misplaced in this proceeding.

Much of CTIA's comments appear to have been filed in a different proceeding. The single issue in this proceeding is whether Sections 54.301(a)(2)(ii) and 36.125(j) of the Commission's Rules should be modified to eliminate the one-way ratcheting provision under which a carrier's DEM weighting factor is reduced if its access line count exceeds one of the established thresholds but is not increased if the carrier's access line count subsequently falls below a threshold. CTIA's principal argument is that universal service support should be directed towards those services which it maintains consumers now demand, i.e. mobility and broadband. As such, CTIA maintains that adopting the

¹ *High Cost Universal Support; Coalition for Equity in Switching Support Petition for Clarification*, WC Docket No. 05-337, Order and Notice of Proposed Rulemaking, FCC 09-89 (rel. October 9, 2009).

proposed modifications to the existing LSS rules represents an unnecessary and unjustified diversion from its long-term goal of remaking the universal support system to focus on those services.

While CTIA's arguments in this regard might be relevant in future proceedings to evaluate comprehensive universal service reform, this is not that proceeding. In other words, CTIA is arguing that because future proceedings may consider its desired outcome, support for mobility and broadband services, anomalies in the existing universal service rules, such as the one-way ratcheting rule, should not be modified. Among other things, this ignores the fact that future proceedings addressing comprehensive universal service reform are likely to be both contentious and lengthy. CTIA's approach would result in leaving the irrationalities in the existing system untouched until such time as a brave new world more to CTIA's liking might emerge.

CTIA's argument also ignores the fact, under the Commission's existing rules, neither mobility nor broadband are included in the nine services and functionalities which are to be supported by the universal service fund under the Commission's rules.² Thus, CTIA is arguing for an outcome that may emerge sometime in the future – an outcome that is, however, precluded by existing Commission rules. Besides being illogical, this argument has no bearing on the issues raised in the NPRM.

B. CTIA's claim that the proposed rule modification will direct support toward inefficient legacy switching technologies reflects a misunderstanding of the Commission's rules and is not supported by the facts.

CTIA maintains that "LSS explicitly funds incumbent LECs' high switching costs, which have been rendered largely obsolete by advances in switching technology."³ CTIA seems to imply that LSS is designed to explicitly support so-called legacy circuit switches, not state-of-the-art soft switch technologies. This is clearly incorrect. Both circuit switches and soft switches are treated as local switching equipment (Category 3 Central Office Equipment) under the Commission's rules. As such, the LSS rules are indifferent between circuit and soft switches.

² 47 CFR 54.301

³ CTIA Comments, page 5.

In fact, contrary to CTIA's implication, the vast majority of ILECs do not engineer their networks to maximize access revenue or universal service support. Carriers constantly reinvest in their networks in order to provide the services their customers demand and to ensure that their networks remain stable and reliable. The availability of LSS enables carriers to make investments in new switching technologies to maintain state-of-the-art networks. GST, for example, recently retired its circuit switches and replaced them with soft switches, the very technology CTIA suggests LSS provides a disincentive to deploy.

C. Contrary to CTIA's assertions, there are sound policy reasons to adopt the proposed rule change.

It is a generally accepted principle of administrative law that the rules promulgated by government agencies should not be "arbitrary and capricious". As the Coalition, GST and other commenters have demonstrated, the one-way ratcheting rule clearly violates this standard. In particular, the existing rule fails in two important respects to treat similarly situated carriers the same. First, two carriers with the same number of access lines would have different DEM weighting factors applied if one had previously exceeded one of the DEM weighting thresholds while the other had not. Applying different DEM weighting factors today based on what each carrier's access lines were in the past fails to reflect that current access line demand, the basis for DEM weighting, is identical. This result is clearly arbitrary.

Second, while a carrier whose access line count was far removed from one of the threshold values could experience a ten or twenty percent increase and subsequent loss in access lines without any adjustment to their DEM weighting factor, a carrier whose access line count was close to a threshold and both gained and lost the same proportion of access lines, would have its DEM weighting factor reduced. Again, this disparity is completely arbitrary.

D. Sprint Nextel's contention that implementing the proposed rule change would jeopardize the financial viability of the universal service fund and violate the

principle of competitive neutrality is not supported by the facts nor by previous Commission findings.

The principal thrust of Sprint Nextel's comments is that to implement the proposed rule change "would jeopardize the financial viability of the federal universal service fund, and violate the principle of competitive neutrality."⁴ Neither of these contentions is supported by the facts nor previous Commission findings. First, as demonstrated by the Coalition for Equity in Switching Support, the financial impact of adopting the proposed rule change would be de minimus. NECA estimated that adoption of the proposed rule change would increase local switching support by \$27 million, which amounts to less than 0.04% of the \$7.1 billion universal service fund⁵.

Second, Sprint Nextel, while noting the Commission's decision to cap USF support to CETCs, conveniently overlooks its finding that capping CETC support "applies interim cost controls to the aspect that most directly threatens the specificity, predictability, and sustainability of the fund: the rapid growth of competitive ETC support"⁶, most of which goes to wireless carriers such as Sprint Nextel. Specifically, the

⁴ Comments of Sprint Nextel, page 1.

⁵ Comments of NECA, NTCA, OPASTCO, ERTA, WTA, page 7

⁶ *High-cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal*, CC Docket No. 96-45, Order, 23 FCC Rcd 8834 (para.9) (2008).

Commission found that “While support to incumbent LECs has been flat since 2003, competitive ETC support, in the seven years from 2001 through 2007, has grown from under \$17 million to \$1.18 billion – an average annual growth rate of over 100 percent.”⁷ Consequently, the minimal increase in USF from adoption of the proposed rule change pales in comparison to the growth in USF due to CETCs.

Third, Sprint Nextel’s contention that the proposed rule change would violate the principle of competitive neutrality is also at odds with the Commission’s findings in the CETC cap proceeding. There, the Commission found that a cap on CETC universal service funding would not violate the principle of competitive neutrality, at least in part because consumers did not view the services provided by wireless carriers as substitutes for wireline services, but rather as a service that most customers purchased in addition to their existing wireline services.⁸ In light of these findings, the minimal increase in ILEC LSS that would result from the proposed rule change falls far short of violating the principle of competitive neutrality.

G. Conclusion

In conclusion, GST urges the Commission to reject the arguments put forth by CTIA and Sprint Nextel and adopt the rule changes proposed in the NPRM as expeditiously as possible.

⁷ Id., para. 6

⁸ Id., para. 20.

Respectfully submitted,

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